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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1492

Introduced by Assembly Member Baugh
(Principal coauthor: Senator Kopp)

February 28, 1997

An act to amend Sections 44001, 44005, 44011, 44014, 44014.5, 44015, 44017, 44036, and 44040 of, to add Section 44017.1 to, and to repeal Section 44015.3 of, the Health and Safety Code, and to repeal Section 4000.7 of the Vehicle Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, as amended, Baugh. Air pollution: motor vehicle inspection and maintenance.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, administered by the Department of Consumer Affairs and the State Air Resources

Board. The smog check program is required to provide for inspection of motor vehicles upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances.

This bill would require the smog check program to provide for the inspection, in those instances, only of specified motor vehicles, as determined by the department, except as otherwise provided in the smog check law.

(2) Existing law, a part of the smog check program, requires all motor vehicles that are registered in designated areas of the state to biennially obtain a certificate of compliance or noncompliance with motor vehicle emission standards, except for certain exempted motor vehicles. Existing law requires the cost limit for repairs under the smog check program to be a minimum of \$450, except as specified. Existing law requires the issuance of an emission cost waiver for a motor vehicle that has been properly tested but does not meet the applicable emission standards, if no adjustment or repair will reduce emissions from the vehicle without exceeding the \$450 cost limit. The department is required to develop and implement either a repair subsidy program or a program that would provide for a 12-month economic hardship extension for motor vehicles from the biennial certificate of compliance requirement under specified circumstances, as prescribed.

A violation of any provision relating to those requirements is a misdemeanor.

This bill would authorize the department, after fulfilling specified requirements, to conduct a pilot program to exempt certain motor vehicles from the biennial certification requirement and, with the approval of the Environmental Protection Agency, to establish permanent exemptions. The bill would exempt from the biennial certification requirement any motor vehicle or class of motor vehicles 4 years old or less, except as specified.

The bill would repeal certain provisions regarding the economic hardship extension program. The bill would change references to “emission cost waiver” to “repair cost waiver,” and would require that such a waiver be issued only upon request. The bill would prohibit the issuance of a repair cost



waiver until all appropriate emissions-related partial repairs up to the amount of the repair cost limit have been performed.

The bill would lower the \$450 repair cost limit to \$200, or \$250, as specified, for motor vehicle owners that qualify as low-income. The bill would subject any person who obtains or attempts to obtain a repair cost waiver by falsifying information to a civil penalty of not less than \$150 and not more than \$1,000, and would prohibit them from receiving any repair assistance pursuant to specified existing law. The bill would create a state-mandated local program by creating new crimes or changing the definition of existing crimes.

(3) Existing law requires the testing and repair portion of the smog check program to be conducted by licensed smog check stations, and authorizes a station to be licensed as a smog check test-only station. Existing law requires the department, in enhanced program areas, to contract with test-only stations to provide referee services to the extent necessary to provide appropriate access to referee functions.

This bill would authorize the department to authorize *the placement of referees in qualified test-only stations to perform* ~~provide referee services and would authorize the department to adopt specified, as prescribed, regulations with regard to the qualification of referees and the provision of referee services.~~

(4) The bill would require the state board and the Bureau of Automotive Repair, on or before January 1, 2003, to design a new proposed program to replace the existing motor vehicle inspection and maintenance program and submit to the Legislature a report on that new program. The bill would require a specified review committee to review the proposed program by July 1, 2003, and submit a proposed plan to the Legislature. The bill would make a related statement of legislative intent.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) *The bill would incorporate additional changes in Section 44011 of the Health and Safety Code proposed by SB 42, to be operative only if this bill and SB 42 are both enacted and become effective on or before January 1, 1998, each bill amends Section 44011 of the Health and Safety Code, and this bill is enacted last.*

(7) The bill would become operative only if both AB 57 and AB 208 are enacted and take effect on or before January 1, 1998.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and
2 declares all of the following:

3 (a) Since the adoption of the federal Clean Air Act in
4 1972, California has made great strides in improving air
5 quality.

6 (b) To comply with federal air quality standards by the
7 year 2010, and to meet every Californian's desire for
8 cleaner air, further reductions in air pollution are
9 necessary.

10 (c) California's stationary source industries and
11 businesses are already among the cleanest in the world,
12 and tighter regulations will achieve few additional
13 pollution reductions.

14 (d) Mobile sources generate roughly one-half of all the
15 remaining air pollution in this state, and the worst
16 polluting 10 to 15 percent of automobiles generate
17 one-half of all the pollution caused by mobile sources.

18 (e) Motor vehicle inspection and maintenance
19 programs can significantly reduce vehicle emissions and
20 thereby contribute to the attainment of clean air
21 standards.

22 (f) Any motor vehicle inspection and maintenance
23 program should provide the maximum possible pollution
24 reduction at a minimum cost and inconvenience to the
25 people of the state.



1 (g) The Legislature recognizes that where new
2 government regulations impose significant costs on
3 businesses or individuals, the government has a
4 responsibility to ensure that the burden of compliance
5 does not fall unfairly on any one group or class of people.

6 SEC. 2. It is the intent of the Legislature that the
7 Department of Consumer Affairs and the State Air
8 Resources Board adhere to the following principles in
9 implementing the motor vehicle inspection and
10 maintenance program established by Chapter 5
11 (commencing with Section 44000) of Part 5 of Division 26
12 of the Health and Safety Code:

13 (a) To promote consumer convenience and
14 acceptance, a program phase-in of the enhanced smog
15 check program requirements in those areas newly subject
16 to those requirements should be developed. Any program
17 phase-in should be consistent with the availability of test,
18 repair, referee, and other facilities necessary to provide
19 reliable and convenient service to vehicle owners subject
20 to the program.

21 (b) Consistent with Section 44070.5, the Department
22 of Consumer Affairs shall develop and implement a
23 thorough public awareness and education program that
24 provides motor vehicle owners with information about
25 enhanced smog check program features, such as the
26 causes of smog check failures, vehicle retesting, repair,
27 referee station options, the importance of proper
28 maintenance and effective repairs, and any economic
29 relief programs. Such a program is essential to the success
30 of the inspection and maintenance program.

31 (c) It is the intent of the Legislature that the enhanced
32 smog check program should be reviewed and modified,
33 as appropriate, based on improvements in the program,
34 technological advances in testing and diagnostic
35 equipment, including remote sensing devices, and
36 vehicle emission control technology when appropriate. It
37 is further the intent of the Legislature that a new
38 program should replace that program not later than 2005.

39 SEC. 3. Section 44001 of the Health and Safety Code
40 is amended to read:

1 44001. (a) The Legislature hereby finds and declares
2 that California has been required, by the amendments
3 enacted to the Clean Air Act in 1990, and by regulations
4 adopted by the Environmental Protection Agency, to
5 enhance California's existing motor vehicle inspection
6 and maintenance program to meet new, more stringent
7 emission reduction targets. Therefore, the Legislature
8 declares that the 1994 amendments to this chapter are
9 adopted to implement further improvements in the
10 existing inspection and maintenance program so that
11 California will meet or exceed the new emission
12 reduction targets.

13 (b) The Legislature further finds and declares all of
14 the following:

15 (1) California is recognized as a leader in establishing
16 performance standards for its air quality programs and
17 those standards have been adopted by many other states
18 and countries.

19 (2) Studies show that a minority of motor vehicles
20 produce a disproportionate amount of the pollution
21 caused by vehicle emissions. Those vehicles are referred
22 to as gross polluters.

23 (3) The concept of periodic testing alone does not act
24 as a sufficient deterrent to tampering, or as a sufficient
25 incentive for vigilant vehicle maintenance by a
26 significant percentage of motorists. Gross polluters
27 continue to be driven on the roadways of California.

28 (4) (A) New technology, known as remote sensing,
29 offers great promise as a cost-effective means to detect
30 vehicles emitting excess emissions as the vehicles are
31 being driven. This type of detection offers many valuable
32 applications, especially its use between scheduled tests, as
33 an inexpensive, random, and pervasive means of
34 identifying vehicles which are gross polluters and
35 targeting those vehicles for repair or other methods of
36 emission reduction.

37 (B) Another new technology, the development of
38 emissions profiles for motor vehicles, allows the motor
39 vehicle inspection program to accurately identify both
40 high- and low-emitting vehicles. This technology may



1 allow the full or partial exception of certain vehicles from
2 biennial certification requirements to the extent
3 determined by the department.

4 (5) California continues to seek strict adherence to
5 federal and state performance standards and to
6 results-based evaluations that meet the state's unique
7 circumstances, and which consist of all of the following:

8 (A) Acceptance of the shared obligation and personal
9 responsibility required to successfully inspect and
10 maintain millions of motor vehicles. Specifically, that
11 obligation begins with this chapter, and extends through
12 those regulators charged with its implementation and
13 enforcement. Through the enactment of the 1994
14 amendments to this chapter, the Legislature hereby
15 recognizes and seeks to encourage, through a number of
16 innovative and significant steps, the critical role that each
17 California motorist must play in maintaining his or her
18 vehicle's emission control systems in proper working
19 order, in such a way as to continuously meet mandated
20 emission control standards and ensure for California the
21 clean air essential to the health of its citizens, its
22 communities, and its economy.

23 (B) A focus on the detection, diagnosis, and repair of
24 broken, tampered, or malfunctioning vehicle emission
25 control systems.

26 (C) Flexibility to incorporate and implement future
27 new scientific findings and technological advances.

28 (D) Consideration of convenience and costs to those
29 who are required to participate, including motorists,
30 smog check stations, and technicians.

31 (E) An enforcement program which is vigorous and
32 effective and includes monitoring of the performance of
33 the smog check test or repair stations and technicians, as
34 well as the monitoring of vehicle emissions as vehicles are
35 being driven.

36 (c) The Legislature further finds and declares that
37 California is, as of the effective date of this section,
38 implementing a number of motor vehicle emission
39 reduction strategies far beyond the effort undertaken by
40 any other state, including all of the following:

1 (1) California certification standards exceed those of
2 the other 49 states, increasing the cost of a new car to a
3 California consumer by one hundred fifty dollars (\$150)
4 or more.

5 (2) State board regulations mandate increasing
6 availability for sale of low-emission, ultra-low emission,
7 and zero-emission vehicles, including, by 2003, 10 percent
8 zero-emission vehicles.

9 (3) Effective in 1996, state board regulations mandate
10 the reformulation of gasoline for reduced emissions, at an
11 estimated increased production cost of 5 to 15 cents per
12 gallon due to refinery modifications and higher
13 production costs.

14 (4) Cleaner diesel fuel regulations, more stringent
15 than federal standards, took effect in California in
16 October 1993, increasing diesel fuel costs by 4 to 6 cents
17 per gallon.

18 (5) California law provides for vehicle registration
19 surcharges of up to four dollars (\$4) per vehicle in
20 nonattainment areas for air quality-related projects.

21 (6) California law taxes cleaner fuels at one-half the
22 rate of gasoline and diesel fuel.

23 (7) California law provides tax credits for the purchase
24 of low-emission vehicles.

25 (8) California requires smog checks and repairs
26 whenever a vehicle changes ownership, some 3 million
27 vehicles annually, in addition to the regular biennial tests.

28 (9) Low-value vehicles are discouraged from entering
29 California due to the imposition of a three hundred dollar
30 (\$300) smog impact fee on vehicles that are not
31 manufactured to California certification standards.

32 (10) California imposes sales taxes on motor vehicle
33 fuels and dedicates most of those revenues to mass transit.
34 This increases the cost of fuels by seven cents (\$.07) per
35 gallon.

36 (11) Transportation sales taxes in most urban counties
37 also generate substantial funding for transit and other
38 congestion-reduction measures, costing the average
39 urban California resident fifty dollars (\$50) to one

1 hundred dollars (\$100) annually, which would be the
2 equivalent of another 8 to 16 cents per gallon of fuel.

3 SEC. 4. Section 44005 of the Health and Safety Code
4 is amended to read:

5 44005. (a) The Department of Motor Vehicles shall
6 cooperate with the department in implementing any
7 changes to enhance the program to achieve greater
8 efficiency, cost-effectiveness, and convenience, or to
9 reduce excess emissions in accordance with this chapter.

10 (b) The program shall provide for inspection of
11 specified motor vehicles, as determined by the
12 department, upon initial registration, biennially upon
13 renewal of registration, upon transfer of ownership, upon
14 the issuance of a notice of noncompliance to a gross
15 polluter pursuant to Section 44081, and as otherwise
16 provided in this chapter.

17 SEC. 5. Section 44011 of the Health and Safety Code
18 is amended to read:

19 44011. (a) All motor vehicles powered by internal
20 combustion engines that are registered within an area
21 designated for program coverage shall be required
22 biennially to obtain a certificate of compliance or
23 noncompliance, except for all of the following:

24 (1) Every motorcycle, and every diesel-powered
25 vehicle, until the department, pursuant to Section 44012,
26 implements test procedures applicable to motorcycles or
27 to diesel-powered vehicles, or both.

28 (2) Any motor vehicle that has been issued a
29 certificate of compliance or noncompliance or a repair
30 cost waiver upon a change of ownership or initial
31 registration in this state during the preceding six months.

32 (3) Any motor vehicle manufactured prior to the 1966
33 model-year.

34 (4) (A) Any motor vehicle four or less model-years
35 old.

36 (B) Any motor vehicle excepted by this paragraph
37 shall be subject to testing and to certification
38 requirements as determined by the department, if any of
39 the following apply:

(i) The department determines through remote sensing activities or other means that there is a substantial probability that the vehicle has a tampered emission control system or would fail for other cause a smog check test as specified in Section 44012.

(ii) The vehicle was previously registered outside this state and is undergoing initial registration in this state.

(iii) The vehicle is being registered as a specially constructed vehicle.

(iv) The vehicle has been selected for testing pursuant to Section 44014.7 or any other provision of this chapter authorizing out-of-cycle testing.

(5) Any motor vehicle or class of motor vehicles exempted pursuant to subdivision (b) of Section 44024.5.

(6) Any motor vehicle that the department determines would present prohibitive inspection or repair problems.

(7) Any vehicle registered to the owner of a fleet licensed pursuant to Section 44020 if the vehicle is garaged exclusively outside the area included in program coverage, and is not primarily operated inside the area included in program coverage.

(b) Vehicles designated for program coverage in enhanced areas shall be required to obtain inspections from appropriate smog check stations operating in enhanced areas.

SEC. 5.5. Section 44011 of the Health and Safety Code is amended to read:

44011. (a) All motor vehicles powered by internal combustion engines ~~which~~—that are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle ~~which~~ that has been issued a certificate of compliance or noncompliance or ~~an~~ ~~emission~~ a repair cost waiver upon a change of ownership

1 or initial registration in this state during the preceding six
2 months, ~~or which has been issued a certificate of~~
3 ~~exemption pursuant to Section 4000.6 or 4000.7 of the~~
4 ~~Vehicle Code.~~

5 (3) ~~Any~~—(A) Prior to January 1, 2003, any motor
6 vehicle manufactured prior to the ~~1966-1974~~ model-year.

7 (B) Beginning January 1, 2003, any motor vehicle that
8 is 30 or more model-years old.

9 (4) (A) Any ~~other~~ motor vehicle ~~which~~ four or less
10 model-years old.

11 (B) Any motor vehicle excepted by this paragraph
12 shall be subject to testing and to certification
13 requirements as determined by the department, if any of
14 the following apply:

15 (i) The department determines through remote
16 sensing activities or other means that there is a substantial
17 probability that the vehicle has a tampered emission
18 control system or would fail for other cause a smog check
19 test as specified in Section 44012.

20 (ii) The vehicle was previously registered outside this
21 state and is undergoing initial registration in this state.

22 (iii) The vehicle is being registered as a specially
23 constructed vehicle.

24 (iv) The vehicle has been selected for testing pursuant
25 to Section 44014.7 or any other provision of this chapter
26 authorizing out-of-cycle testing.

27 (5) Any motor vehicle or class of motor vehicles
28 exempted pursuant to subdivision (b) of Section 44024.5.

29 (6) Any motor vehicle that the department
30 determines would present prohibitive inspection or
31 repair problems.

32 ~~(5)~~

33 (7) Any vehicle registered to the owner of a fleet
34 licensed pursuant to Section 44020 if the vehicle is
35 garaged exclusively outside the area included in program
36 coverage, and is not primarily operated inside the area
37 included in program coverage.

38 (b) Vehicles designated for program coverage in
39 enhanced areas shall be required to obtain inspections

1 from appropriate smog check stations operating in
2 enhanced areas.

3 SEC. 6. Section 44014 of the Health and Safety Code
4 is amended to read:

5 44014. (a) Except as otherwise provided in this
6 chapter, the testing and repair portion of the program
7 shall be conducted by smog check stations licensed by the
8 department, and by smog check technicians who have
9 qualified pursuant to this chapter.

10 (b) (1) A smog check station may be licensed by the
11 department as a smog check test-only station and, when
12 so licensed, need not comply with the requirement for
13 onsite availability of current service and adjustment
14 procedures specified in paragraph (3) of subdivision (b)
15 of Section 44030. A smog check technician employed by
16 a smog check test-only station shall be qualified in
17 accordance with this section.

18 (2) The department may authorize *the placement of*
19 *referees in* qualified test-only stations to ~~perform referee~~
20 ~~services.~~ *provide referee services as a matter of*
21 *convenience to the public. The department shall supply*
22 *those referees directly or through a contractor. A referee*
23 *shall have no ownership interest in the facility at which*
24 *the referee is located. Referees shall be solely responsible*
25 *for issuing repair cost waivers, certificates of compliance*
26 *or noncompliance, and hardship extensions, in*
27 *accordance with regulations adopted by the department.*

28 The department may adopt regulations to establish
29 qualification standards and any special administrative,
30 operational, and licensure standards that the department
31 determines to be necessary for test-only stations that
32 perform referee services.

33 (c) A smog check station may also be licensed as a
34 repair-only station, and if so licensed, may perform
35 repairs to reduce excessive emissions on vehicles which
36 have failed the smog check test. Repair procedures and
37 equipment requirements shall be established by the
38 department. Technicians employed by a smog check
39 repair-only station shall be qualified in accordance with
40 this section.

(d) Smog check technicians are qualified to test and repair only those classes and categories of vehicles for which they have passed a qualification test administered by the department. The department shall provide for smog check technicians to be qualified for different categories of motor vehicle inspection based on vehicle classification and model-year.

(e) The consumer protection-oriented quality assurance portion of the program may be conducted by one or more private entities pursuant to contracts with the department.

SEC. 7. Section 44014.5 of the Health and Safety Code is amended to read:

44014.5. (a) The enhanced program shall provide for the testing and retesting of vehicles in accordance with Sections 44010.5 and 44014.2 and this section.

(b) The repair of vehicles at test-only facilities shall be prohibited, except that the minor repair of components damaged by station personnel during inspection at the station, any minor repair that is necessary for the safe operation of a vehicle while at a station, or other minor repairs, such as the reconnection of hoses or vacuum lines, may be undertaken at no charge to the vehicle owner or operator if authorized in advance in writing by the department.

(c) The department shall provide for the distribution to consumers by test-only facilities of a list, compiled by region, of smog check stations licensed to make repairs of vehicular emission control systems. A test-only facility shall not refer a vehicle owner to any particular provider of vehicle repair services.

(d) The department shall establish standards for training, equipment, performance, or data collection for test-only facilities.

(e) The department shall prohibit test-only facilities from engaging in other business activities that represent a conflict of interest, as determined by the department.

(f) The test-only facility may charge a fee, established by the department, sufficient to cover the facility's cost to perform the tests or services, including, but not limited

1 to, referee services and the issuance of waivers and
2 hardship extensions required by this chapter. In addition,
3 the station shall charge and collect the certificate fee
4 established pursuant to Section 44060. This subdivision
5 shall apply only to facilities contracted for pursuant to
6 subdivision (e) of Section 44010.5.

7 (g) The department shall ensure that there is a
8 sufficient number of test-only facilities to provide
9 convenient testing for the following vehicles:

10 (1) All vehicles identified and confirmed as gross
11 polluters pursuant to Section 44081 and Section 27156 of
12 the Vehicle Code.

13 (2) (A) Vehicles initially identified as gross polluters
14 by a smog check station licensed as a test-and-repair
15 station and certified pursuant to Section 44014.2 may be
16 issued a certificate of compliance by a test-only facility or
17 by the licensed smog check station certified pursuant to
18 Section 44014.2 at which they were initially identified as
19 a gross polluter.

20 (B) For purposes of this section, the department may
21 conduct a pilot program to allow vehicles initially
22 identified as gross polluters to be repaired and issued a
23 certificate of compliance by a facility licensed and
24 certified pursuant to Section 44014.2. For the purposes of
25 this pilot program, the department may adopt
26 regulations imposing additional station requirements.

27 (3) All vehicles designated by the department
28 pursuant to Sections 44014.7 and 44020.

29 (4) Vehicles issued an economic hardship extension in
30 the previous biennial inspection of the vehicle.

31 (h) The department shall provide a sufficient number
32 of test-only facilities authorized to perform referee
33 functions to provide convenient testing for those vehicles
34 that are required to report to, and receive a certificate of
35 compliance from, a test-only facility by this chapter,
36 including all of the following:

37 (1) All vehicles seeking to utilize state-operated
38 financial assistance or inclusion in authorized scrap
39 programs.

(2) All vehicles unable to obtain a certificate of compliance from a licensed smog check station pursuant to subdivision (c) of Section 44015.

(3) Any other vehicles that may be designated by the department.

(i) Gross polluters shall be referred to a test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g), for a postrepair inspection and retest pursuant to subdivision (g). Simply passing the emissions test shall not be a sufficient condition for receiving a certificate of compliance. A certificate of compliance shall only be issued to a vehicle that does not have any defects with its emission control system or any defects that could lead to damage of its emission control system, as provided in regulations adopted by the department.

SEC. 8. Section 44015 of the Health and Safety Code is amended to read:

44015. (a) A licensed smog check station shall not issue a certificate of compliance, except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

(2) A vehicle that, prior to repairs, has been initially identified by the smog check station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Section 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 44014.5.

(3) A vehicle described in subdivision (c).

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

(c) (1) A repair cost waiver shall be issued, upon request of the vehicle owner, by a gold shield station or

1 a test-only facility authorized to perform referee
2 functions for a vehicle that has been properly tested but
3 does not meet the applicable emission standards when it
4 is determined that no adjustment or repair can be made
5 that will reduce emissions from the inspected motor
6 vehicle without exceeding the applicable repair cost limit
7 established under Section 44017 and that every defect
8 specified by paragraph (2) of subdivision (a) of Section
9 43204, and by paragraphs (2) and (3) of subdivision (a)
10 of Section 43205, has been corrected. A repair cost waiver
11 issued pursuant to this paragraph shall be accepted in lieu
12 of a certificate of compliance for the purposes of
13 compliance with Section 4000.3 of the Vehicle Code.

14 (2) A low-income repair cost waiver shall be issued,
15 upon request of a qualified low-income motor vehicle
16 owner, by a gold shield facility, or a test-only facility
17 authorized to perform referee functions, for a motor
18 vehicle that has been properly tested but does not meet
19 the applicable emission standards when it is determined
20 that no adjustment or repair can be made that will reduce
21 emissions from the inspected motor vehicle without
22 exceeding the applicable repair cost limit, as established
23 pursuant to Section 44017.1, and that every defect
24 specified in paragraph (2) of subdivision (a) of Section
25 43204, and in paragraphs (2) and (3) of subdivision (a) of
26 Section 43205, has been corrected.

27 (d) No repair cost waiver shall be issued under any of
28 the following circumstances:

29 (1) If a motor vehicle was issued a repair cost waiver
30 in the previous biennial inspection of that vehicle. A
31 repair cost waiver may be issued to a motor vehicle owner
32 only once for a particular motor vehicle belonging to that
33 owner. However, a repair cost waiver may be issued for
34 a motor vehicle that participated in a previous waiver or
35 extension program prior to January 1, 1998, as determined
36 by the department. For waivers issued in the waiver
37 program operative on or after January 1, 1998, a waiver
38 may be issued for a motor vehicle only once per owner.
39 No repair cost waiver shall exceed two years' duration.

(2) Upon initial registration of all of the following: a direct import motor vehicle, a motor vehicle previously registered outside this state, a dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code, a motor vehicle that has had an engine change, an alternate fuel vehicle, and a specially constructed vehicle.

(3) Unless all appropriate emissions-related partial repairs at least equal to the amount of the applicable repair cost limit in Section 44017 or Section 44017.1, if applicable, have been performed.

(e) A certificate of compliance or noncompliance shall be valid for 90 days.

(f) A test may be made at any time within 90 days prior to the date otherwise required.

SEC. 9. Section 44015.3 of the Health and Safety Code is repealed.

SEC. 10. Section 44017 of the Health and Safety Code is amended to read:

44017. (a) Except as otherwise provided in this section or Section 44017.1, the cost limit for repairs under the program, including parts and labor, shall be a minimum of four hundred fifty dollars (\$450) in all areas where the program operates.

(b) The limit established pursuant to subdivision (a) shall not become operative until the department issues a public notice declaring that the program established pursuant to Section 44010.5 is operational in the relevant geographical areas of the state, or until the date that testing in those geographic areas is operative using loaded mode test equipment, as defined in this article, whichever occurs first. Prior to that time, the following cost limits shall remain in effect:

(1) For motor vehicles of 1971 and earlier model years, fifty dollars (\$50).

(2) For motor vehicles of 1972 to 1974, inclusive, model years, ninety dollars (\$90).

(3) For motor vehicles of 1975 to 1979, inclusive, model years, one hundred twenty-five dollars (\$125).

(4) For motor vehicles of 1980 to 1989, inclusive, model years, one hundred seventy-five dollars (\$175).

1 (5) For motor vehicles of 1990 to 1995, inclusive model
2 years, three hundred dollars (\$300).

3 (6) For motor vehicles of 1996 and later model years,
4 four hundred fifty dollars (\$450).

5 (c) The department shall periodically revise the
6 repair cost limits specified in subdivisions (a) and (b) in
7 accordance with changes in the Consumer Price Index,
8 as published by the United States Bureau of Labor
9 Statistics.

10 (d) If insufficient funds are available to adequately
11 fund the low-income repair assistance program during
12 any year, the repair cost limits shall revert to those
13 specified in subdivision (b).

14 (e) No repair cost limit shall be imposed in those cases
15 where emissions control equipment is missing or is
16 partially or totally inoperative as a result of being
17 tampered with.

18 SEC. 11. Section 44017.1 is added to the Health and
19 Safety Code, to read:

20 44017.1. Notwithstanding subdivision (a) of Section
21 44017, for motor vehicle owners qualified as low income
22 under Section 44062.1, the repair cost limit, including
23 parts and labor, shall be a minimum of two hundred
24 dollars (\$200) in all areas where the program operates.
25 However, the department may increase that minimum,
26 to not more than two hundred fifty dollars (\$250), if the
27 department determines that the program is not
28 cost-effective.

29 SEC. 12. Section 44036 of the Health and Safety Code
30 is amended to read:

31 44036. (a) The consumer protection-oriented quality
32 assurance portion of the motor vehicle inspection
33 program shall ensure uniform and consistent tests and
34 repairs by all qualified smog check technicians and
35 licensed smog check stations throughout the state, and
36 shall include a number of stations providing referee
37 functions available to consumers.

38 (b) All licensed smog check stations shall utilize
39 original equipment and replacement parts that are
40 certified by the department. The department shall

1 charge a fee for certification testing of the equipment or
2 the replacement parts. The fee for certification testing of
3 equipment shall be fixed by the department based upon
4 its actual costs of certification testing, shall be calculated
5 from the time that the equipment is submitted for
6 certification testing until the time that the certification
7 testing is complete, and shall not exceed ten thousand
8 dollars (\$10,000). The fee for certification testing of
9 replacement parts shall be determined by the
10 department based upon its actual costs of certification
11 testing, shall be calculated from the time that the
12 replacement part is submitted for certification testing
13 until the time that the certification testing is complete,
14 and shall not exceed two thousand five hundred dollars
15 (\$2,500). The department shall adopt, and may revise,
16 standards for certification and decertification of the
17 equipment, which may include a device for testing of
18 emissions of oxides of nitrogen. As expeditiously as
19 possible, the department shall adopt equipment
20 standards that include a test analyzer system containing
21 all of the following:

22 (1) A microprocessor to control test sequencing,
23 selection of proper test standards, the automatic pass or
24 fail decision, and the format for the test report and the
25 recorded data file. The microprocessor shall be capable of
26 using a standardized programming language specified by
27 the department.

28 (2) An exhaust gas analysis portion with an analyzer
29 for hydrocarbons, carbon monoxide, and carbon dioxide
30 that is designed to accommodate an optional oxides of
31 nitrogen analyzer. An oxides of nitrogen analyzer shall be
32 required in the enhanced program areas.

33 (3) Equipment necessary to perform visual and
34 functional tests of emission control devices required by
35 the department.

36 (4) A device to accept and record motor vehicle
37 identification information, including a device capable of
38 reading bar code information pursuant to regulations of
39 the state board. The device shall have the ability to
40 identify, with the cooperation of the Department of

1 Motor Vehicles, smog inspections performed on vehicles
2 sold by used car dealers.

3 (5) A device to provide a printed record of the test
4 process and diagnostic information for the motorist.

5 (6) A mass storage device capable of storing not less
6 than the minimum amount of program software and data
7 specified by the department.

8 (7) A device to provide for the periodic modification
9 of all program and data files contained on the mass
10 storage device, using a standardized form of removable
11 media conforming to specifications of the department.

12 (8) A device that provides for the storage of test
13 records on a standardized form of removable media
14 conforming to specifications of the department.

15 (9) One or more communications ports conforming to
16 the specifications established by the department as
17 necessary to provide real time communication, or
18 communication that is consistent with maintaining a
19 superior quality assurance program and efficient
20 information transfer, between the test equipment and
21 the centralized computer data base through the
22 computer network maintained by the department
23 pursuant to Section 44037.1.

24 (10) An interface capable of monitoring equipment
25 used with loaded mode testing, idle testing, on board
26 diagnostic testing, or other tests prescribed by the
27 department.

28 (11) Any other features that the department
29 determines are necessary to increase the effectiveness of
30 the program, including, but not limited to, a loaded mode
31 dynamometer for purposes of oxides of nitrogen
32 detection, and other equipment necessary to detect
33 nonexhaust-related volatile organic compound emissions,
34 such as found in fuel system evaporative emissions and
35 crankcase ventilation emissions.

36 (c) The department shall require all smog check
37 stations to use equipment meeting the requirements of
38 subdivision (b) as soon as possible, but not later than
39 January 1, 1996. However, the department may defer the
40 requirement for any equipment, external to the chassis of

1 the test analyzer system, needed to read bar code
2 information, until a substantial portion of the vehicles
3 subject to this chapter are equipped with bar code labels.
4 Prior to the imposition of a requirement for equipment
5 meeting the requirements of subdivision (b), every smog
6 check station shall use equipment meeting the
7 specifications of the department in effect on January 1,
8 1988.

9 (d) The quality assurance portion shall provide for
10 inspections of licensed smog check stations, data
11 collection and forwarding, equipment accuracy checks,
12 operation of referee stations, and other necessary
13 functions. If the services are contracted for pursuant to
14 subdivision (e) of Section 44014, the department shall
15 prepare detailed specifications and solicit bids from
16 private entities for the implementation of the quality
17 assurance functions.

18 (e) The department may revise the specifications for
19 equipment annually if the cost thereof is less than 20
20 percent of the total system cost. A more comprehensive
21 revision to the specifications may be required not more
22 often than every five years.

23 (f) (1) Equipment manufacturers shall furnish to the
24 department, and shall install, software updates as
25 specified by the department. The department shall allow
26 equipment manufacturers six months, from the date the
27 department issues its proposed specifications for periodic
28 software updates, to obtain department approval that the
29 updates meet the proposed specifications and to install
30 the updates in all equipment subject to the updates.
31 During the first 30 days of the six-month period, the
32 manufacturers shall be permitted to review and to
33 comment upon the proposed specifications. However,
34 notwithstanding any other provision of this section, the
35 department may order manufacturers to install software
36 changes in a shorter period of time upon a finding by the
37 department that a previously installed update does not
38 meet current specifications. A manufacturer's failure to
39 furnish or install software updates as so specified is cause
40 for the department to decertify the manufacturer's test

1 analyzer system or to issue a citation to the manufacturer.
2 The citation shall specify the nature of the violation and
3 may specify a civil penalty not to exceed one thousand
4 dollars (\$1,000) for each day the manufacturer fails to
5 furnish or install the specified software updates by the
6 specified period. In assessing a civil penalty pursuant to
7 this subdivision, the department shall give due
8 consideration, in determining the appropriateness of the
9 amount of the civil penalty, to factors such as the gravity
10 of the violation, the good faith of the manufacturer, and
11 the history of previous violations.

12 (2) The citations shall be served pursuant to
13 subdivision (c) of Section 11505 of the Government Code.
14 The manufacturer may request a hearing in accordance
15 with Chapter 5 (commencing with Section 11500) of Part
16 1 of Division 3 of Title 2 of the Government Code. A
17 request for a hearing shall be submitted in writing within
18 30 days of service of the citation, and shall be delivered to
19 the office of the department in Sacramento. Hearings and
20 related procedures under this subdivision shall be
21 conducted in the same manner as proceedings for
22 adjudication of an accusation under that Chapter 5,
23 except as otherwise specified in this article.

24 (3) If within 30 days from the date of service of the
25 citation, the manufacturer fails to request a hearing, the
26 citation shall be deemed the final order of the
27 department.

28 (4) Any failure to comply with the final order of the
29 department for payment of a civil penalty, or to pay the
30 amount specified in any settlement executed by the
31 licensee and the Director of Consumer Affairs, is cause for
32 decertification of the manufacturer's test analyzer
33 system.

34 SEC. 13. Section 44040 of the Health and Safety Code
35 is amended to read:

36 44040. The department may require certificates of
37 compliance, certificates of noncompliance, and repair
38 cost waivers to contain a unique number encoded in bar
39 code. These certificates may be sold to licensed smog
40 check stations by the department, printed by test

1 analyzer systems, or transmitted by electronic means.
2 The department, with the cooperation of the
3 Department of Motor Vehicles, shall periodically check
4 certificates to determine their validity.

5 SEC. 14. Section 4000.7 of the Vehicle Code is
6 repealed.

7 SEC. 15. (a) It is the intent of the Legislature to
8 replace the existing vehicle inspection and maintenance
9 program in Chapter 5 (commencing with Section 44000)
10 of Part 5 of Division 26 of the Health and Safety Code, on
11 or before January 1, 2005.

12 (b) On or before January 1, 2003, the State Air
13 Resources Board and the Bureau of Automotive Repair
14 shall design a new proposed program to replace the
15 existing vehicle inspection and maintenance program
16 and submit to the Legislature a report on that new
17 program.

18 (c) Not later than July 1, 2003, the Inspection and
19 Maintenance Review Committee shall review the
20 program proposed pursuant to subdivision (b) and shall
21 submit to the Legislature a plan proposed by the
22 committee.

23 SEC. 16. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

33 Notwithstanding Section 17580 of the Government
34 Code, unless otherwise specified, the provisions of this act
35 shall become operative on the same date that the act
36 takes effect pursuant to the California Constitution.

37 SEC. 17. *Section 5.5 of this bill incorporates*
38 *amendments to Section 44011 of the Health and Safety*
39 *Code proposed by both this bill and SB 42. It shall only*
40 *become operative if (1) both bills are enacted and*

1 *become effective on or before January 1, 1998, (2) each*
2 *bill amends Section 44011 of the Health and Safety Code,*
3 *and (3) this bill is enacted after SB 42, in which case*
4 *Section 5 of this bill shall not become operative.*

5 SEC. 18. This act shall become operative only if both
6 Assembly 57 and Assembly Bill 208 of the 1997–98 Regular
7 Session of the Legislature are enacted and take effect on
8 or before January 1, 1998.

